

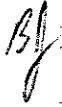
# Administrative Office of the Courts

Chief Justice Richard C. Howe  
Chairman, Utah Judicial Council

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator

## MEMORANDUM

To: Heather Mackenzie-Campbell, Audit Manager

From:  Brent Johnson, General Counsel

Re: Distribution of Higher Education Fines

Date: January 22, 2001

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I have reviewed your memorandum on the issue in \_\_\_\_\_ County and I have reviewed the relevant statutes related to distribution of fines for offenses committed on college or university campuses. It is my opinion that justice courts are required to submit 100% of the fine only for parking and traffic offenses. I will explain.

Utah Code Ann. § 53B-3-110 states that "all fines and forfeitures collected by any justice court judge and one-half of all the fines and forfeitures collected by the clerk of any district court for a violation of any of this chapter are remitted to the state treasurer to be credited to the general operating fund of the State Institution of Higher Education complaining of the violation." (Emphasis added) The answer to whether 100% is remitted is therefore dependent on whether the offense is a violation of Title 53B, Chapter 3. There are three provisions which are important for determining what constitutes a violation of the title and chapter. Section 53B-3-106 states that all of the criminal laws of the state are in force on higher education campuses. Section 53B-3-107 states that "it is a violation of this section for any person to operate or park a vehicle upon any property owned or controlled by a State Institution of Higher Education contrary to posted signs authorized by the published rules and regulations of the institution or to block or impede traffic through or on any of these properties." Section 53B-3-108 then states that "a violation of the chapter is a misdemeanor." Reading these three sections together, it is my opinion that only those violations in § 53B-3-107 (traffic and parking) are considered violations of that chapter. To read the statute in any other way would mean that the Legislature had declared all offenses committed on college campuses to be only a misdemeanor. It is highly doubtful that the Legislature had such an intent.

The relevant legislation was enacted in 1969. I looked at the language of the bill as originally enacted and the intent language specifically stated that it was to confirm the applicability of parking and traffic laws on college campuses. The intent is therefore to only remit fines and forfeitures for

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efficient, and independent system for the advancement of justice under the law.**

*Heather Mackenzie-Campbell*

*January 22, 2001*

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violation of parking and traffic laws. Thus, even though a campus police officer may be able to cite, for example, someone for drug or alcohol possession, the offense would not be a violation of Title 53B, Chapter 3 and therefore the fines and forfeitures would be remitted according to § 78-5-116. Based on what you found with the University of Utah, (receiving fines for things such as retail theft), it may be that other courts are sending too much money to higher education.

Please let me know if you have any questions about this matter. You may have uncovered an issue which has negative fiscal consequences for universities.